

7.16 (17A,455A) License suspension or revocation and other licensee disciplinary proceedings.

7.16(1) *Notice.* Except as provided in 7.16(6), prior to the suspension or revocation of a license, the department shall give notice of the intended action, and an opportunity to be heard at an evidentiary hearing conducted according to the provisions of this chapter.

7.16(2) *Content of notice.* The notice shall inform the licensee of the department's intent to suspend or revoke the license or otherwise discipline the licensee and shall include facts or conduct which warrant the intended action, a statement of the legal authority and jurisdiction under which the hearing is to be held, and a statement that the licensee may show at a hearing that the licensee meets all lawful requirements to retain the license or otherwise not be subject to disciplinary action.

7.16(3) *Delivery of notice.* Delivery of notice in licensee proceedings may be by personal service or by restricted certified mail.

7.16(4) *Mandatory hearings.* Where required by statute (e.g., Iowa Code section 455B.217), a hearing shall be held prior to revocation or suspension of a license. The petition shall be filed at the same time the notice is filed. The presiding officer shall prepare the notice of hearing upon receipt of the notice of intended action and petition and the procedure shall follow that of this chapter.

7.16(5) *Requested hearing.* In the case of revocation or suspension of licenses other than those within 7.16(4), the department shall give notice as required in 7.16(1) and 7.16(2), which shall include a statement that the person notified has the right to a hearing in accordance with this chapter and that the person entitled to a hearing may invoke the right within 30 days of receipt of the notice. Upon receipt of the request for a hearing, the presiding officer shall prepare a notice of hearing. Within ten days of receiving notice of hearing, the department shall file a petition and the procedure shall follow that of this chapter.

7.16(6) *Emergency suspension.* A license may be suspended without providing to the licensee notice and opportunity to be heard if the agency having jurisdiction finds that the public health, safety or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order. The order shall be served in the same manner provided in 7.16(3). If a license is summarily suspended in accordance with this

561-7.16

paragraph, the department shall promptly thereafter give notice and an opportunity to be heard and determine the matter.

7.16(7) *Effective date of suspension or revocation.*

a. With respect to license suspension or revocation pursuant to this rule, except an emergency suspension pursuant to 7.16(6), the suspension or revocation shall be effective upon failure of the permittee to request a hearing within the time required in 7.16(5) or upon the issuance of an order suspending or revoking the permit after hearing.

b. With respect to a license suspension pursuant to 7.16(6), the license suspension is effective upon service of the order, and shall remain effective until rescinded by the agency or until the suspension is terminated by order after hearing.

FRM: 60 FR 45671 (9/1/95)

State Submission: 11/10/93

State Final: IAC 9/7/88 (Effective 10/12/88)

Description: EPA approved a new chapter "Rules of Practice in Contested Cases." This chapter governs procedures in contested cases generally including appeals of administrative orders, appeals of license or permit conditions, license or permit denials or suspensions. This chapter was approved in conjunction with Title V rules.

[illegible]

Difference Between the State and EPA-Approved Regulation

None.